

Board of Professional Engineers of Queensland L

This case was a disciplinary action by the Board of Professional Engineers of Queensland (“**Board**”) against a registered professional engineer (deidentified as “**L**”) in the Queensland Commercial and Consumer Tribunal (“**Tribunal**”).

Disciplinary Ground

The Board alleged, and L conceded, that L engaged in unsatisfactory professional conduct while registered as a registered professional engineer. By consent of both parties, the Tribunal ordered that a disciplinary ground was made out.

L’s Background

At the time of the application L had been registered as a professional engineer for a significant period of time, and was registered at all times while undertaking work on the land subdivision project in Queensland the subject of the proceeding.

Conduct of L

The parties provided a statement of agreed facts to the Tribunal continuing the admissions as to the conduct of the engineer.

L prepared the design drawings for the project following discussions with the local council, and these drawings were approved for construction by the council with some conditions.

A civil contractor subsequently commenced construction in a manner that did not comply with the approved design and the conditions imposed by the council. L directed that the work cease as it was not consistent with the approved design.

However, L then made a request to the council to accept the works, and sent ‘as constructed’ drawings to the council which were in fact a copy of the original approved design drawings. No amendments had been made to reflect the changes to the design. L also sent the council a construction certificate which falsely stated that the construction was in accordance with the drawings.

L admitted that in preparing the original designs that L did not take sufficient care to ensure that the designs could be constructed in accordance with the conditions imposed by the council.

L also admitted that he was aware that the drawings prepared by L and marked ‘as constructed’ which were submitted to the council did not represent what had actually been constructed.

What the Tribunal Said

The evidence before the Tribunal confirmed that L had submitted drawings to the council which did not reflect the actual construction work completed on the project, and additionally that L sent a false certification to the council in support of those drawings.

The Tribunal found that:

1. in submitting the ‘as constructed’ drawings with the false certification, L was hoping that the inadequacy in the construction would be overlooked or disregarded by council; and

2. to act in this way was conduct falling below the standard to be expected of a registered professional engineer.

As such, the Tribunal was satisfied that L's actions in preparing and submitting the false drawings and certification to the council constituted unsatisfactory professional conduct.

Consequences for L

In determining the appropriate penalty, the Tribunal took into account a number of factors in favour of L, including that:

1. no actual loss or damage was suffered as a consequence of L's actions;
2. L acted responsibly in directing that work cease once L became aware that construction of the detention basin had not been undertaken in accordance with the original design;
3. this proceeding was the first instance of such conduct over L's long professional career, and the references provided by L as an indication of L's good standing within the profession; and
4. L has already been caused shame and embarrassment by these proceedings.

While it was accepted that L had expressed genuine remorse for his conduct, the Tribunal nevertheless considered that the deterrence of such conduct by others was a relevant consideration.

Taking the above factors into consideration, the Tribunal reprimanded L and ordered L to pay a monetary penalty and the Board's costs.